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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/049,297 03/27/98 WALKER

J WD2-98-007

022927  
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STAMFORD CT 06905

LMC1/0830

EXAMINER

SMITH, D

ART UNIT	PAPER NUMBER
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2763

14

DATE MAILED: 08/30/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 09/049,297	Applicant(s), Walker et al.
Examiner Demetra R. Smith	Group Art Unit 2763

Responsive to communication(s) filed on May 23, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle 835 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 13, 14, 33, 34, 56, 57, 80, and 81 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 13, 14, 33, 34, 56, 57, 80, and 81 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2763

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### **Part III DETAILED ACTION**

#### *Response to Amendment*

1. This office action is responsive to the amendment filed on 5/23/00. Claims 1-12, 15-32, 35-55, 58-79 and 82-89 have been canceled. Claim 33 has been amended. Claims 13, 14, 33, 34, 56, 57, 80, and 81 are pending.

#### *Claim Objections*

2. Claim 33 is objected to because of the following informalities: "the computer program code further for accessing a date indicative of the last time said first discount charge" should be replaced with --the computer program code further for accessing a date indicative of the last time said first discount change--. Appropriate correction is required.

#### *Allowable Subject Matter*

3. The indicated allowability of claims 13, 14, 33, 34, 56, 57, 80, and 81 are withdrawn in view of the newly discovered reference(s) to Girouard et al (4,982,346). Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Art Unit: 2763

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13, 14, 33, 34, 56, 57, 80, and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Girouard et al (4,982,346).

As to claims 13, 33, 56, 80, Girouard et al discloses the Mall Promotion Network that award discount coupons or prizes based on the number of visits, the amount of the purchases the customer makes to the mall or retail outlet. The Mall Promotion Network would track the frequency of the card scans and award coupons, discounts, rebates, or prizes based on a schedule and the number of visits (see col. 4, lines 25-35);

the computer system includes a magnetic stripe card reader, bar code reader, monitor, printer, keyboard, and touch screen input device (see abstract, lines 2-4);

if the official time required between visits has elapsed, then the number of visits is incremented, and the check prize level routine is executed . . . (see 37-51); each record in the frequent shopper file contains the shopper ID, the date of the last visit, the time of the last visit, the total number of visits, and the last prize level (see col. 19, lines 57-61). . . if the user visit is a “first visit”, the read frequent shopper file routine terminates. If a match is found between the user’s entered ID and a shopper ID, then the contents of the matching record are stored into the memory (see col. 20, lines 8);

a loop is entered whereby the last prize level of the frequent shopper record is used to determine the prize level from the frequent shopper prize file. Beginning at the first prize level, the prize level is compared to the user’s last prize level until the prize level is less than the last prize

level. If the prize level is greater than or equal to the last prize level, then the next lower prize level in the frequent shopper prize file is examined. When the last prize is greater than the prize level from the last prize is greater than the prize level, then the number of visits associated with a prize level is compared to the user's number of visits. . .(See col. 20, line 30-52).

As to claims 14, 34, 57, and 81 Girouard et al discloses the frequent shopper means, for increasing the probability that the sweepstakes participants win prizes as the frequency of their use of the system increases, thereby increasing the effectiveness of the advertisements by increasing the frequency that the sweepstakes participants use the system (see col.24, lines 9-16).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Demetra R. Smith**, whose telephone number is (703) **308-6989**. The examiner can normally be reached on Tuesday-Friday from 8:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by phone fail, the examiner's supervisor, **Kevin J. Teska**, can be reached at (703) **305-9704**. Additionally, the fax phone for Art Unit 2764 is (703) **308-9051 or 308-9052**, (for formal communications intended for entry), or (703) **308-5397** (for informal or draft communications, please label "PROPOSED" OR "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**Demetra.Smith@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirement of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Serial Number: 09/049,297

Art Unit: 2763

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-3900.



**Demetra R. Smith**

**Patent Examiner**

**Group Art Unit 2764**

July 31, 2000



KEVIN J. TRACY  
SUPERVISORY  
PATENT EXAMINER